Supreme Court of the United States

OCTOBER TERM, 1967

No. 1018

C. PARKE MASTERSON,

Petitioner,

—against—

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A REHEARING

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To: *The Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States*

Petitioner, C. PARKE MASTERSON, moves this court for a rehearing pursuant to Rule 58.

I.

Statement as to Applications Previously Made.

Petitioner has not heretofore moved this court for a rehearing. The petition herein was filed on January 15, 1968. On March 4, 1968, the petition for certiorari was denied.

II.

Grounds for a Rehearing.

Petitioner herein seeks a rehearing for the reason that his petition for a writ of certiorari involves issues which are the same as those in United States ex rel *DeForte* v. *Mancusi*, No. 844, wherein certiorari was granted on January 22, 1968. Such issue is whether the affirmance of the judgment of conviction by the Second Circuit contradicted its prior decision in United States ex rel *DeForte* v. *Mancusi*, 2d Cir., 1967, 379 F. 2d 897? In the *DeForte case*, supra, the court below held that DeForte had standing to question the search and seizure although the seized records were not his property and that such evidence was illegally seized and could not be used against him during his trial. The facts of the instant petition are virtually identical with those of the *DeForte* case. Here, as in *DeForte*, supra, records were seized without warrant or other lawful process from petitioner's law offices by trespass and the untruthful representation that the records were being taken pursuant to an order issued by the referee in bankruptcy when, in fact, no such order existed. Because the facts and issues in *DeForte*, supra, and the case at bar are in striking parallel and certiorari was granted in *DeForte*, supra, no good reason seems to exist to support denial of the petition for a writ of certiorari.

CONCLUSION

By reason of all of the foregoing it is respectfully requested that the petition for a rehearing be granted and thereupon the petition for certiorari be granted.

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To:

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